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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 MATTHEW GANTT,
8
9

v.
10 Plaintiff,

JANET RHOTON,
11 Defendants.

Case No. C19-5352 RBL-TLF

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

11 This matter comes before the Court on plaintiff's motion for appointment of counsel.

12 Dkt. 7. The Court has considered the record and finds that plaintiff's motion for counsel should
13 be denied at this time, without prejudice. Plaintiff will be allowed to renew this motion if, at a
14 later time in the proceedings, exceptional circumstances would require appointment of counsel.

15 No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v.*
16 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v. \$292,888.04 in U.S.*
17 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is
18 discretionary, not mandatory."). In "exceptional circumstances," a district court may appoint
19 counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)). *Rand v. Roland*, 113 F.3d
20 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

21 To decide whether exceptional circumstances exist, the Court must evaluate both "the
22 likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro*
23 *se* in light of the complexity of the legal issues involved." *Wilborn v. Escalderon*, 789 F.2d
24 1328, 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A

1 plaintiff must plead facts that show he has an insufficient grasp of his case or the legal issue
2 involved, and an inadequate ability to articulate the factual basis of his claim. *Agyeman v.*
3 *Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004). That a *pro se* litigant may
4 be better served with the assistance of counsel is not the test. *Rand*, 113 F.3d at 1525.

5 Here, plaintiff filed his complaint *pro se* and has demonstrated an ability to articulate his
6 claims *pro se* in a clear fashion understandable to this Court. Plaintiff's allegations indicate that
7 this is not a complex case involving complex facts or law.

8 In addition, plaintiff presents no evidence to show that he is likely to succeed on the
9 merits of his case. While plaintiff may not have vast resources or legal training, he meets the
10 threshold for a *pro se* litigant. Plaintiff contends that he has limited legal knowledge and time-
11 restricted access to the prison law library, but this alone is not sufficient to require appointment
12 of counsel. *See Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990) (noting that
13 contended exceptional factors were "difficulties which any litigant would have in proceeding
14 *pro se*"). Thus, plaintiff has failed in his burden to demonstrate an inability to present his claims
15 to this Court without counsel or to show that exceptional circumstances require the Court to
16 appoint counsel at this stage.

17 As plaintiff has not shown appointment of counsel is appropriate at this time, the motion
18 for the appointment of counsel (Dkt. 7) is DENIED without prejudice.

19 The Clerk shall send a copy of this Order to plaintiff.

20 Dated this 24th day of June, 2019.

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Theresa L. Fricke

Theresa L. Fricke
United States Magistrate Judge